In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 4942 of 2006

Date of Decision: 26.03.2007

Anil Kumar

…Petitioner

Versus

Haryana Financial Corporation and another

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Y.P. Malik, Advocate,
for the petitioner.

Mr. Puneet Gupta, Advocate,
for the respondents.

JUDGMENT

M.M. KUMAR, J.

The prayer made by the petitioner in this petition, filed under Article 226 of the Constitution, is that re-auction notice dated 13.3.2006 (P-2), in respect of the property in question, be quashed and direction be issued to the respondents to confirm the auction in which the petitioner had given highest bid on 3.1.2006 and completed all formalities by executing the documents.

Brief facts of the case are that the Haryana Financial Corporation, through its Branch Manager-respondent No. 2, issued public notice in the Hindi daily 'Dainik Bhaskar, dated 16.12.2005, for sale by auction of various sick /closed units under its

possession/deemed possession. The date of the auction fixed was 3.1.2006 at 11.00 a.m. and the reserve price was kept as Rs. 2.50 lacs. The petitioner deposited a sum of Rs. 5,000/- (P-1) as earnest money at the spot and in the auction he gave the highest bid of Rs. 2.60 lacs for the unit of M/s Surya International, which comprised agricultural land measuring 3 Kanals 7 Marlas, situated in the revenue area of Village Rathiwas, District Gurgaon. The petitioner also deposited 10% of the total amount at the spot. On inquiries, vide letter dated 21.3.2006 (P-3), he was told that fresh advertisement for re-auction of the property was issued on 13.3.2006 (P-2) and the re-auction was to take place on 3.4.2006. The claim made in the instant petition is that the petitioner has acquired right being the highest bidder in the auction held on 3.1.2006 and entitled to confirmation of sale in his favour.

In rely the stand taken by the respondents is that the Corporation had made five attempts to dispose of the property in dispute which was taken as a collateral security. It was for the first time during fifth attempt that the Corporation received a bid of Rs. 2.60 lacs from the petitioner. The Corporation expected that a better offer can be received if the properties are put to open auction again. It would be to the advantage of the borrower as well as the Corporation. It was in this view of the matter that the Corporation retained the bid of Rs. 2.60 lacs offered by the petitioner and decided to advertise the property for re-auction by taking the price bid of Rs. 2.60 lacs. It is claimed that the Corporation has acted strictly in accordance with the procedure for disposal of properties in

possession as approved by the Board of Directors of the Corporation. It has also been asserted that three bidders also participated in the auction. It has been emphasized that public money is involved and it is in the larger interest of the public as well as the Corporation that maximum price is fetched.

We have heard learned counsel for the parties at a considerable length and find that the petitioner has not acquired any vested right merely by depositing an amount of Rs. 5,000/- and 10% of the bid amount. It is well settled that in such like cases no finality could be assumed until the highest bid is accepted by the competent authority and further steps are taken to execute the documents in favour of the bidder. In the present case, no steps have been taken which may result into vesting of any right in the petitioner.

In view of the above, there is no merit in the petition and the same is accordingly dismissed. However, it is made clear that the dismissal of the petition shall be without any prejudice to the rights of the petitioner to seek refund of the amount as has been stated by Shri Ashok Pahwa, Deputy General Manager (Legal), in para 2 of the affidavit dated 21.12.2006.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

March 26, 2007

Pkapoor